

Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of)	
)	
Amendment of Section 73.202(b),)	
Table of Allotments,)	
FM Broadcast Stations.)	
(Las Animas, Colorado)	)	MB Docket No. 02-250
	)	RM-10549
)	
(Muleshoe, Texas)	)	MB Docket No. 02-251
	)	RM-10315
)	
(Rocksprings, Texas)	)	MB Docket No. 02-252
	)	RM-10316
)	
(Rankin, Texas)	)	MB Docket No. 02-253
	)	RM-10317
)	
(Big Lake, Texas)	)	MB Docket No. 02-254
	)	RM-10550

NOTICE OF PROPOSED RULE MAKING

Adopted: August 14, 2002

Released: August 30, 2002

Comment Date: October 21, 2002

Reply Date: November 5, 2002

By the Assistant Chief, Audio Division:

1. Before the Commission for consideration is a *Notice of Proposed Rule Making* setting forth seven proposals to amend the FM Table of Allotments, Section 73.202(b) of the Rules. The petitioners have stated that they will apply for the requested channels, if allotted. Each proposal warrant consideration because they comply with our technical requirements and would serve the public interest. We request comments and/or counterproposals to the following proposals:

A. MB Docket No. 02-250; RM-10549

Petitioner: Sierra Grande Broadcasting
Post Office Box 51
Des Moines, New Mexico 88418-0051

Proposal: Allot Channel 234C1 at Las Animas, Colorado as the community's second local FM allotment.

<u>Community</u>	<u>Present</u>	<u>Proposed</u>
Las Animas, Colorado	297A	234C1, 297A

Coordinates: 38-02-18 NL and 103-11-09 WL

Additional Information: Channel 234C1 can be allotted to Las Animas with a site restriction of 4.5 km (2.8 miles) southeast of Las Animas at the reference coordinates indicated above.

Las Animas is an incorporated town with a population of 2,481 persons. Las Animas is the county seat of Bent County.

FCC Contact: Deborah A. Dupont (202) 418-7072

B. MB Docket No. 02-251; RM-10315

Petitioner: Linda Crawford
3500 Maple Avenue, #1320
Dallas, Texas 75219

Proposal: Allot Channel 227C1 at Muleshoe, Texas as the community's second local FM allotment and third local aural broadcast service.

<u>Community</u>	<u>Present</u>	<u>Proposed</u>
Muleshoe, Texas	276A	227C1, 276A

Coordinates: 34-02-03 NL and 103-02-08 WL

Additional Information: The proposed allotment of Channel 227C1 at Muleshoe requires a site restriction of 35.8 km (22.3 miles) southwest of Muleshoe at the coordinates indicated above.

Petitioner states that Muleshoe is an incorporated city with a population in excess of 4,530 persons. Muleshoe is the county seat of Bailey County. Petitioner states that Muleshoe has its own mayor, post office, school system, and fire department.

FCC Contact: Deborah A. Dupont (202) 418-7072

C. MB Docket No. 02-252; RM-10316

Petitioner: Katherine Pyeatt
6655 Aintree Circle

Dallas, Texas 75214

Proposal: Allot Channel 263A at Rocksprings, Texas as the community's fourth local FM service.

<u>Community</u>	<u>Present</u>	<u>Proposed</u>
Rocksprings, Texas	223A,235C3,295C2 ¹	263A, 223A,235C3,295C2

Coordinates: 30-01-30 NL and 100-20-06 WL

Additional Information: The proposed allotment of Channel 263A at Rocksprings requires a site restriction of 12.6 km (7.8 miles) west of Rocksprings at the reference coordinates indicated above. The proposed allotment will require concurrence by Mexico because it is located within 320 kilometers (199 miles) of the Mexican border.

Petitioner states that Rocksprings is an incorporated city with a population of 1,552 people. Rocksprings is the county seat of Edwards County. Petitioner states that Rocksprings has its own mayor, school system, post office, and fire department.

FCC Contact: Deborah A. Dupont (202) 418-7072

D. MB Docket NO. 02-253; RM-10317

Petitioner: Katherine Pyeatt
6655 Aintree Circle
Dallas, Texas 75214

Proposal: Allot Channel 273C1 at Rankin, Texas as the community's first local aural broadcast service.²

<u>Community</u>	<u>Present</u>	<u>Proposed</u>
Rankin, Texas	---	273C1

Coordinates: 31-13-21 NL and 101-56-15 WL

Additional Information: The proposed allotment of Channel 273C1 at Rankin requires no site restriction at center city reference coordinates indicated above.

Rankin is an incorporated town with a population of 1,011 persons. Rankin is the county seat of Upton

¹ Channel 235C3 was added at Rocksprings, effective September 16, 2002. *Rocksprings, Texas*, DA 02-1763 (M.Bur., August 2, 2002).

² A proposal for a second FM allotment at Rankin was filed on December 28, 2001, by Robert Fabian, requesting the allotment of Channel 229C3. That proposal is pending.

County. Petitioner states that Rankin has its own mayor, school system, post office, and fire department.

FCC Contact: Deborah A. Dupont (202) 418-7072

E. MB Docket No. 02-254; RM-10550

Petitioner: Linda Crawford
3500 Maple Avenue, #1320
Dallas, Texas 75219

Proposal: Allot Channel 296C2 at Big Lake, Texas as the community's fourth FM allotment.³

<u>Community</u>	<u>Present</u>	<u>Proposed</u>
Big Lake, Texas	211A, 252C2, 281A	211A, 252C2, 281A, 296C2

Coordinates: 30-57-18 NL and 101-23-48 WL

Additional Information: The proposed allotment of Channel 296C2 at Big Lake requires a site restriction of 26.9 km (16.7 miles) south of Big Lake at the reference coordinates indicated above.

Petitioner states that Big Lake is an incorporated city with a population of 3,481 persons with its own mayor, school system, post office, and fire department. Big Lake is the county seat of Reagan County.

FCC Contact: Deborah A. Dupont (202) 418-7072

2. Comments, reply comments, counterproposals and other pleadings filed in response to this *Notice of Proposed Rule Making* should reference the docket to which the filing pertains. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein. In particular, we note that a showing of continuing interest is required in paragraph 2 of the Appendix before a channel will be allotted.

3. Interested parties may file comments on or before **October 21, 2002**, and reply comments on or before **November 5, 2002**, and are advised to read the Appendix for the proper procedures. Additionally, a copy of any filing should be served on the petitioner.

4. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to a rule making proceeding to amend the FM Table of Allotments, Section 73.202(b) of the Commission's Rules.⁴

³ A proposal for a fifth FM allotment at Big Lake was filed on December 28, 2001, by Robert Fabian, requesting the allotment of Channel 246A. That proposal is pending.

⁴ See *Certification that Section 603 and 604 of the Regulatory Flexibility Do Not Apply to Rule Making to Amend*

5. For further information concerning this proceeding, contact Deborah A. Dupont, the designated FCC contact, at the telephone number indicated above. For purposes of this restricted notice and comment rule making proceeding, members of the public are advised that no *ex parte* presentations are permitted from the time the Commission adopts a *Notice of Proposed Rule Making* until the proceeding has been decided and such decision in the applicable docket is no longer subject to reconsideration by the Commission or review by any court. An *ex parte* presentation is not prohibited if specifically requested by the Commission or staff for the clarification or adduction of evidence or resolution of issues in the proceeding. However, any new written information elicited from such a request or any summary of any new information shall be served by the person making the presentation upon the other parties to the proceeding in the particular docket unless the Commission specifically waives this service requirement. Any comment which has not been served on the petitioner constitutes an *ex parte* presentation and shall not be considered in the proceeding. Any reply comment which has not been served on the person(s) who filed the comment, to which the reply is directed, constitutes an *ex parte* presentation and shall not be considered in this proceeding.

FEDERAL COMMUNICATIONS COMMISSION

John A. Karousos
Assistant Chief, Audio Division
Media Bureau

APPENDIX

1. Pursuant to authority contained in Sections 4(i), 5(c)(1), 303(g) and (r), and 307(b) of the Communications Act of 1934, as amended, and Sections 0.61, 0.204(b) and 0.283 of the Commission's Rules, IT IS PROPOSED TO AMEND the FM (TV) Table of Allotments, Section 73.202(b) (73.606(b)) of the Commission's Rules and Regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. Showings Required. Comments are invited on the proposal discussed in the *Notice of Proposed Rule Making* to which this Appendix is attached. The proponent will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed allotment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is allotted and, if authorized, to build a station promptly. Failure to file may lead to denial of the request.

3. Cut-off Procedures. The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See Section 1.420(d) of the Commission's Rules.)

(b) With respect to petitions for rule making which conflict with the proposal in this *Notice*, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

(c) The filing of a counterproposal may lead the Commission to allot a different channel than was requested for any of the communities involved.

4. Comments and Reply Comments; Service. Pursuant to applicable procedures set out in Sections 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions by parties to this proceeding or by persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See Section 1.420(a), (b) and (c) of the Commission's Rules.) Comments should be filed with the Secretary, Federal Communications Commission, Washington, D.C. 20554.

5. Number of Copies. In accordance with the provisions of Section 1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. Public Inspection of Filings. All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Reference Information Center (Room CY-A257), at its headquarters, 445 Twelfth Street, SW., Washington, D.C.